

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JUAN RAMON TORRES and EUGENE	§	
ROBISON,	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	CIVIL ACTION NO. 4:09-CV-2056
	§	
SGE MANAGEMENT, LLC; STREAM GAS	§	
& ELECTRIC, LTD.; STREAM SPE GP; <i>et al.</i> ,	§	
<i>Defendants.</i>	§	

**EXHIBIT 2 – STATUS REPORT ON BEHALF OF MESSRS. PREBEG,
KOCHANOWSKI, BURNETT, AND CITRON**

Per the Court’s order [Dkt. 417], Class Counsel Matthew J.M. Prebeg, and Andrew Kochanowski, and Associated Class Counsel Jeffrey W. Burnett and Eric F. Citron, provide this status report. Though each of us filed separate fee petitions and provided the Court with separate evidence to award and allocate fees, and though we each have nuanced differences in our views of the case, we have sought to provide the Court with a singular position as to the most efficient way to resolve this fee dispute.

The Court does not need more fee petitions or evidence. The Fifth Circuit remanded this case to Judge Hoyt “for elaboration of the trial court’s reasoning under the *Johnson* framework.” *Torres v. SGE Mgmt., L.L.C.*, 945 F.3d 347, 349 (5th Cir. 2019); [Dkt. 415-2, p. 3]. All counsel except Clearman believe a formal hearing on the allocation issue is neither necessary nor contemplated by the remand following Clearman’s appeal. Before Judge Hoyt recused himself and transferred this fee dispute to this Court, he ruled that neither the Fifth Circuit’s remand nor Federal Rule of Civil Procedure 23(h) require or

permit more evidence or fee petitions. [Dkt. 408]. We agree. In our view, the Court's only task is to review the fee petitions all counsel filed in 2018, allocate fees among counsel, and explain its allocation using the *Johnson* framework. The fee petitions filed in 2018 are: Dkts. 291, 292, 295, 297, 298, and 321. The Court will see that Clearman filed *two* fee petitions because Judge Hoyt struck Clearman's first fee petition (Dkt. 298), which failed to include information necessary to conduct a *Johnson* cross-check—e.g., Clearman did not include contemporaneous time records or other objectively credible evidence of productive time he spent on this case, because he never kept any. Thus, it is our view that Clearman is entitled to either no fee or, at most, the \$840,866.19 remaining after all other counsel receive all the fees they sought. [*See generally* Dkt. 388].

The Court may benefit from succinct briefing (and perhaps a hearing after that).

The record in this fee dispute is over 100 entries long, owing largely to Clearman's shifting positions and piecemeal filings, as well as the successful motions to strike filed by other counsel (the only fee petition filed by Clearman that remains in the record is itself subject to a pre-appeal, still-pending motion to strike).

Given the breadth of the record, and this Court's relative unfamiliarity with the fee dispute or the underlying litigation, we believe it would be helpful if each Class and Associated Class Counsel filed a five-page brief, *without* submission of new evidence, laying out their view of the case and the relief they seek. If, after reviewing those submissions, the Court would like to hold a hearing to permit counsel to express their positions, we suggest a telephonic or videoconference hearing limited to 15 minutes for Clearman and 30 minutes for the remaining counsel.

Dated: April 7, 2020.

Respectfully submitted,

/s/ Matthew J.M. Prebeg

Matthew J.M. Prebeg

Attorney-in-Charge

S.D. Tex. No. 603742

Texas Bar No. 00791465

Brent T. Caldwell

S.D. Tex. No. 827326

Texas Bar No. 24056971

PREBEG, FAUCETT & ABBOTT PLLC

8441 Gulf Freeway, Suite 307

Houston, Texas 77017

(832) 742-9260

(832) 742-9261 [fax]

mprebeg@pfalawfirm.com

bcaldwell@pfalawfirm.com

- AND -

/s/ Andrew Kochanowski

Andrew Kochanowski

Admitted pro hac vice

SOMMERS SCHWARTZ, P.C

One Towne Square, Suite 1700

Southfield, MI 48076

(248) 355-0300

(248) 936-2140 [fax]

akochanowski@sommerspc.com

- AND -

/s/ Jeffrey W. Burnett

Jeffrey W. Burnett

S.D. Tex. No. 1114797

Texas Bar No. 24025274

JEFFREY W. BURNETT, PLLC

12226 Walraven

Huffman, Texas 77336

(281) 324-1400

(713) 583-1221 [fax]

jburnett@burnetthoustonlaw.com

- AND -

/s/ Eric F. Citron
Eric F. Citron
Admitted pro hac vice
GOLDSTEIN & RUSSELL, P.C.
7475 Wisconsin Avenue, Suite 850
Bethesda, MD 20814
(202) 362-0636
(866) 574-2033 [fax]
ec@goldsteinrussell.com

Attorneys for Plaintiffs & Pro Se

- AND -

/s/ Cody W. Stafford
Cody W. Stafford
Texas Bar No. 24068238
S.D. Tex. No. 1129436
DOBROWSKI, LARKIN & STAFFORD L.L.P.
4601 Washington Ave., Suite 300
Houston, Texas 77007
(713) 659-2900
(713) 659-2908 [fax]
cstafford@doblaw.com

*Attorney for Jeffrey W. Burnett
& Jeffrey W. Burnett, PLLC*